

Senate Bill No. 1178

CHAPTER 336

An act to amend Sections 1202.8 and 3004 of, and to add Sections 290.04, 290.05, and 290.06 to, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, Speier. Sex offenders: continuous electronic monitoring.

Existing law requires a person convicted of any specified sex offense to register as a sex offender.

This bill would require every person required to register as a sex offender to be subject to assessment using the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). The bill would establish the SARATSO Review Committee, as specified. Commencing January 1, 2008, the SARATSO for adult males would be the STATIC-99 risk assessment scale. The committee could be required to research risk assessment tools for female and juvenile offenders, and to advise the Legislature and Governor of their recommendation. The committee would also develop and administer a training program for persons designated to administer the SARATSO to offenders.

The bill would require the Department of Corrections and Rehabilitation to assess every eligible person who is incarcerated or on parole for the risk of reoffending, using the SARATSO. The bill would also require each probation department to assess every eligible person who is under their supervision for the risk of reoffending, using the SARATSO.

Existing law requires persons placed on probation by a court to be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

This bill would require every adult male who is convicted of an offense that requires him to register as a sex offender who is assessed to have a high risk of reoffending to be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The bill would require each probation department to report to the Legislature and to the Governor on the effectiveness of mandatory electronic monitoring of offenders, as specified.

Existing law authorizes the parole authority to require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction

in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices.

This bill would require every adult male who is convicted of an offense that requires him to register as a sex offender who is assessed to have a high risk of reoffending to be continuously electronically monitored while on parole, unless the Department of Corrections and Rehabilitation determines that such monitoring is unnecessary for a particular person. The bill would require the Department of Corrections and Rehabilitation to report to the Legislature and to the Governor on the effectiveness of mandatory electronic monitoring of offenders, as specified.

The bill would specify that the monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology.

Because the bill would impose new duties on local agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 290.04 is added to the Penal Code, to read:

290.04. (a) (1) The sex offender risk assessment tools authorized by this section for use with selected populations shall be known, with respect to each population, as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). If a SARATSO has not been selected for a given population pursuant to this section, no duty to administer the SARATSO elsewhere in this code shall apply with respect to that population. Every person required to register as a sex offender shall be subject to assessment with the SARATSO as set forth in this section and elsewhere in this code.

(2) A representative of the Department of Corrections and Rehabilitation, in consultation with a representative of the Department of Mental Health and a representative of the Attorney General's office, shall comprise the SARATSO Review Committee. The purpose of the committee shall be to ensure that the SARATSO reflects the most reliable, objective and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated with multiple cross-validations, and is widely accepted by the courts. The committee shall consult with experts in the fields of risk assessment and the use of

actuarial instruments in predicting sex offender risk, sex offending, sex offender treatment, mental health, and law, as it deems appropriate.

(b) (1) Commencing January 1, 2007, the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale.

(2) On or before January 1, 2008, the SARATSO Review Committee shall determine whether the STATIC-99 should be supplemented with an actuarial instrument that measures dynamic risk factors or whether the STATIC-99 should be replaced as the SARATSO with a different risk assessment tool. If the committee unanimously agrees on changes to be made to the SARATSO, it shall advise the Governor and the Legislature of the changes, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult males.

(c) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for females required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for females.

(d) On or before January 1, 2007, the SARATSO Review Committee shall research risk assessment tools for juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for juveniles.

(e) The committee shall periodically evaluate the SARATSO for each specified population. If the committee unanimously agrees on a change to the SARATSO for any population, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for that population.

(f) The committee shall perform other functions as necessary to carry out the provisions of this act or as may be otherwise required by law. The committee shall be immune from liability for good faith conduct under this act.

SEC. 2. Section 290.05 is added to the Penal Code, to read:

290.05. (a) On or before January 1, 2008, the SARATSO Review Committee established pursuant to Section 290.04, in consultation with probation officers and parole officers, shall develop a training program for probation officers, parole officers, local law enforcement personnel, and any other persons authorized by this code to administer the SARATSO, as

set forth in Section 290.04. The Department of Corrections and Rehabilitation shall be responsible for overseeing the training, which shall be conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk. Subject to requirements promulgated by the committee, probation departments, regional parole officers, and local law enforcement agencies shall designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations designated to perform risk assessments as required or authorized by law. Any person who administers the SARATSO shall receive training no less frequently than every two years.

(b) The SARATSO may be performed for purposes authorized by statute only by persons trained pursuant to this section.

SEC. 3. Section 290.06 is added to the Penal Code, to read:

290.06. Effective on or before July 1, 2008, the SARATSO, as set forth in Section 290.04, shall be administered as follows:

(a) (1) The Department of Corrections and Rehabilitation shall assess every eligible person who is incarcerated in state prison. The assessment shall take place at least four months, but no sooner than 10 months, prior to release from incarceration.

(2) The department shall assess every eligible person who is on parole. The assessment shall take place at least four months, but no sooner than 10 months, prior to termination of parole.

(3) The Department of Mental Health shall assess every eligible person who is committed to that department. The assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment.

(4) Each probation department shall assess every eligible person for whom it prepares a report pursuant to Section 1203.

(5) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (4). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.

(b) If a person required to be assessed pursuant to subdivision (a) was assessed pursuant to that subdivision within the previous five years, a reassessment is permissible but not required.

(c) The SARATSO Review Committee established pursuant to Section 290.04, in consultation with probation officers and local law enforcement agencies, shall establish a plan and a schedule for assessing eligible persons not assessed pursuant to subdivision (a). The plan shall provide for adult males to be assessed on or before January 1, 2012, and for females and juveniles to be assessed on or before January 1, 2013, and it shall give priority to assessing those persons most recently convicted of an offense requiring registration as a sex offender. On or before January 15, 2008, the committee shall introduce legislation to implement the plan.

(d) On or before January 1, 2008, the SARATSO Review Committee shall research the appropriateness and feasibility of providing a means by

which an eligible person subject to assessment may, at his or her own expense, be assessed with the SARATSO by a governmental entity prior to his or her scheduled assessment. If the committee unanimously agrees that such a process is appropriate and feasible, it shall advise the Governor and the Legislature of the selected tool, and it shall post its decision on the Department of Corrections and Rehabilitation's Internet Web site. Sixty days after the decision is posted, the established process shall become effective.

(e) For purposes of this section, "eligible person" means a person who was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290 and who has not been assessed with the SARATSO within the previous five years.

SEC. 4. Section 1202.8 of the Penal Code is amended to read:

1202.8. (a) Persons placed on probation by a court shall be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

(b) Commencing July 1, 2008, every adult male who is convicted of an offense that requires him to register as a sex offender pursuant to Section 290 shall be assessed for the risk of reoffending consistent with Section 290.06. The assessment shall be performed by a probation officer who has been trained pursuant to Section 290.05. Every adult male who has a risk assessment of high shall be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology. Nothing in this section prohibits probation authorities from using electronic monitoring technology pursuant to any other provision of law.

(c) Within 30 days of a court making an order to provide restitution to a victim or to the Restitution Fund, the probation officer shall establish an account into which any restitution payments that are not deposited into the Restitution Fund shall be deposited.

(d) Beginning January 1, 2009, each probation department shall report every two years to the Legislature and to the Governor on the effectiveness of continuous electronic monitoring of offenders pursuant to subdivision (b). The report shall include the costs of monitoring and the recidivism rates of those persons who have been monitored.

SEC. 5. Section 3004 of the Penal Code is amended to read:

3004. (a) Notwithstanding any other law, the parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and

the agent supervising the parolee which is to be used solely for the purposes of voice identification.

(b) Notwithstanding subdivision (a), commencing July 1, 2008, every adult male who is convicted of an offense that requires him to register as a sex offender pursuant to Section 290 shall be assessed for the risk of reoffending consistent with Section 290.06. The assessment shall be performed by a parole officer who has been trained pursuant to Section 290.05. Every adult male who has a risk assessment of high shall be continuously electronically monitored while on parole, unless the department determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology. Nothing in this section prohibits parole authorities from using electronic monitoring technology pursuant to any other provision of law.

(c) Beginning January 1, 2009, and every two years thereafter, the Department of Corrections and Rehabilitation shall report to the Legislature and to the Governor on the effectiveness of continuous electronic monitoring of offenders pursuant to subdivision (b). The report shall include the costs of monitoring and the recidivism rates of those persons who have been monitored.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to protect public safety by ensuring that sex offenders are electronically monitored, it is necessary that this act take effect immediately.